

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEAN KYLE MARTIN,

Plaintiff,

v.

H. FERNANDEZ, Mailroom  
Employee, B. LONGINO, Mailroom  
Employee, JOHN DOE, Publication  
Review Committee (Chair), and  
TRACEY SCHNIDER, HQ  
Correctional Manager,

Defendants.

NO. 2:21-CV-0278-TOR

ORDER DENYING PLAINTIFF'S  
MOTION FOR TEMPORARY  
RESTRAINING ORDER OR  
PRELIMINARY INJUNCTION

BEFORE THE COURT is Plaintiff's Motion for Temporary Restraining Order or Preliminary Injunction (ECF No. 20). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein and is fully informed. For the reasons discussed below, Plaintiff's Motion for Temporary Restraining Order or Preliminary Injunction (ECF No. 20) is DENIED.

ORDER DENYING PLAINTIFF'S MOTION FOR TEMPORARY  
RESTRAINING ORDER OR PRELIMINARY INJUNCTION ~ 1

## BACKGROUND

This matter concerns *pro se* Plaintiff Sean Kyle Martin's allegations that Defendants violated his constitutional rights by delaying and ultimately denying delivery of a publication sent to Plaintiff. ECF No. 18. Plaintiff filed the operable Amended Complaint on January 27, 2022. *Id.* He claims his due process rights were violated by the delayed rejection decision concerning the book, *Brian Froud's World of Faerie (The World of Faerie)*. *Id.* at 6. He further alleges the rejection decision violated his First Amendment right to freedom of expression. *Id.* at 7. In the present motion, Plaintiff seeks injunctive relief to prevent Defendants from violating his and other inmates' constitutional rights, and to require Defendants to comply with Department of Corrections ("DOC") mailroom policy regarding review of publications sent to inmates. ECF No. 20.

## DISCUSSION

### I. Legal Standard

Pursuant to Federal Rule of Civil Procedure 65, a district court may grant a temporary restraining order in order to prevent "immediate and irreparable injury." Fed. R. Civ. P. 65(b)(1)(A). The analysis for granting a TRO is "substantially identical" to that for a preliminary injunction. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). It "is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council*,

1 *Inc.*, 555 U.S. 7, 24 (2008).

2 To obtain this relief, a plaintiff must demonstrate: (1) a likelihood of success  
3 on the merits; (2) a likelihood of irreparable injury in the absence of preliminary  
4 relief; (3) that a balancing of the hardships weighs in plaintiff’s favor; and (4) that  
5 a preliminary injunction will advance the public interest. *Winter*, 555 U.S. at 20;  
6 *M.R. v. Dreyfus*, 697 F.3d 706, 725 (9th Cir. 2012). Under the *Winter* test, a  
7 plaintiff must satisfy each element for injunctive relief.

8 Alternatively, the Ninth Circuit also permits a “sliding scale” approach  
9 under which an injunction may be issued if there are “serious questions going to  
10 the merits” and “the balance of hardships tips sharply in the plaintiff’s favor,”  
11 assuming the plaintiff also satisfies the two other *Winter* factors. *All. for the Wild*  
12 *Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (“[A] stronger showing of  
13 one element may offset a weaker showing of another.”). “[T]he district court ‘is  
14 not bound to decide doubtful and difficult questions of law or disputed questions of  
15 fact.’” *Int’l Molders’ and Allied Workers’ Local Union No. 164 v. Nelson*, 799  
16 F.2d 547, 551 (9th Cir. 1986). In the same vein, the court’s factual findings and  
17 legal conclusions are “not binding at trial on the merits.” *Univ. of Tex. v.*  
18 *Camenisch*, 451 U.S. 390, 395 (1981). The moving party bears the burden of  
19 persuasion and must make a clear showing of entitlement to relief. *Winter*, 555  
20 U.S. at 22.

1                   **A. Plaintiff's Claims on Behalf of Others**

2           Defendants challenge Plaintiff's ability to bring claims on behalf of others.  
3 ECF No. 31 at 5. "It is well established that the privilege to represent oneself *pro*  
4 *se* . . . is personal to the litigant and does not extend to other parties or entities."  
5 *Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008). Courts routinely  
6 reject *pro se* plaintiffs' attempts to bring claims on behalf of others in a  
7 representative capacity. *Id.* (collecting cases). Plaintiff appears to seek injunctive  
8 relief on behalf of himself and "others of the inmate population" with respect to  
9 DOC's review process for mailed publications. ECF No. 20 at 14; *see also* ECF  
10 No. 21-1. Plaintiff may seek relief only as to himself. Any claims or requests for  
11 relief asserted on behalf of others are denied and dismissed.

12                   **B. Claims Asserted Outside the First Amended Complaint**

13           Defendants argue Plaintiff's injunctive relief is premised on claims not  
14 asserted in the First Amended Complaint. ECF No. 31 at 5–6. The First Amended  
15 Complaint alleges Defendants violated Plaintiff's constitutional rights by delaying  
16 and ultimately denying delivery of a single book sent to Plaintiff. ECF No. 18 at  
17 4–13. However, Plaintiff's motion for injunctive relief lists several additional  
18 instances in which Defendants allegedly withheld books sent Plaintiff. ECF No.  
19 21 at 3, ¶ 10, at 4, ¶ 13, at 5, ¶ 16, at 6, ¶ 21, at 7, ¶ 27. "When a plaintiff seeks  
20 injunctive relief based on claims not pled in the complaint, the court does not have

1 the authority to issue an injunction.” *Pac. Radiation Oncology, LLC v. Queen's*  
2 *Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015). Consequently, the Court cannot  
3 grant injunctive relief as to any book withholdings other than the book listed in the  
4 First Amended Complaint, specifically, *Brian Froud’s World of Faerie (The World*  
5 *of Faerie)*.

### 6 **C. Prison Litigation Reform Act**

7 Defendants argue the relief Plaintiff seeks is overly broad and would violate  
8 the Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626(a)(1)(A). The First  
9 Amended Complaint appears to seek an injunction that would impose oversight  
10 and monitoring of DOC mailroom procedures over the course of 10 years. ECF  
11 No. 20 at 14–16.

12 The PLRA authorizes preliminary injunctive relief that is narrowly drawn,  
13 extends no further than necessary to correct the harm, and is the least intrusive  
14 means necessary. 18 U.S.C. § 3626(a)(1)–(2). Here, Plaintiff seeks broad  
15 injunctive relief for a single incident in which DOC mailroom staff allegedly  
16 withheld a book sent to Plaintiff. District courts are cautioned against becoming  
17 “enmeshed in the minutiae of prison operations.” *Lewis v. Casey*, 518 U.S. 343,  
18 362 (1996). A 10-year long injunction imposing oversight and monitoring  
19 requirements would be a significant intrusion into DOC’s operations. The Court  
20

1 finds the injunctive relief Plaintiff seeks is overly broad and inappropriate under  
2 the PLRA.

3 **D. Irreparable Harm**

4 Defendants assert Plaintiff has failed to allege any irreparable harm. ECF  
5 No. 31 at 6. The First Amended Complaint alleges Plaintiff has suffered mental  
6 distress and “stunt[ed] . . . growth as a professional illustrator” due to DOC’s  
7 withholding of the book sent to Plaintiff. ECF No. 18 at 9.

8 “Irreparable harm is traditionally defined as harm for which there is no  
9 adequate legal remedy, such as an award of damages.” *Arizona Dream Act Coal.*  
10 *v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014). “[I]ntangible injuries . . . qualify  
11 as irreparable harm.” *Rent-A-Car, Inc. v. Canyon Television and Appliance*  
12 *Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991). Here, beyond generalized claims  
13 of mental and professional harm, Plaintiff offers no facts or evidence, in either the  
14 First Amended Complaint or the present motion, to show he has suffered  
15 irreparable harm. *See* ECF Nos. 18 at 4–9; 20 at 3–6. Consequently, Plaintiff has  
16 failed to establish the first element necessary for injunctive relief; the Court need  
17 not reach the remaining requirements. Plaintiff has failed to demonstrate he is  
18 entitled to a temporary restraining order or a preliminary injunction.

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 Plaintiff's Motion for Temporary Restraining Order or Preliminary  
3 Injunction (ECF No. 20) is **DENIED**.

4 The District Court Executive is directed to enter this Order and furnish  
5 copies to counsel.

6 DATED March 15, 2022.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge